

2026 IL App (1st) 252330-U

No. 1-25-2330

Order Filed October 20, 2026

SECOND DIVISION

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> ESTATE OF ADRIENNE RUTH STARKS,	)	Appeal from the Circuit Court of
an Alleged Person With a Disability	)	Cook County.
	)	
(Adrienne Evonne Martin,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 2024 P 005815
	)	
Adrienne Ruth Starks,	)	
	)	
Respondent),	)	
	)	
(Adrienne Evonne Martin, Appellant;	)	Honorable Susan Kennedy Sullivan,
HeflerLichtenberg LLC, Appellee).	)	Judge, presiding.

JUSTICE D.B. WALKER delivered the judgment of the court.
Justices McBride and Ellis concurred in the judgment.

ORDER

¶ 1 **Held:** The trial court erred in allocating guardian *ad litem* fees to petitioner without a hearing to determine petitioner's continued eligibility for a fee waiver. The guardian *ad litem*'s motion for review of petitioner's fee waiver is granted in part and denied in part. We vacate the trial court's order allocating the guardian *ad litem* fees, remand this matter for further proceedings, and dismiss this appeal.

¶ 2 Petitioner Adrienne Evonne Martin filed a petition seeking the appointment of a guardian for her allegedly disabled mother, respondent Adrienne Ruth Starks. The trial court appointed

Kevin C. Lichtenberg of appellee law firm HeflerLichtenberg LLC to serve as guardian *ad litem* (GAL) for respondent. The court subsequently granted petitioner's motion to withdraw her petition and granted leave for the GAL to file his petition for fees. Following a hearing, the court granted the GAL's fee request and assessed those fees against petitioner. Petitioner then filed a motion to reconsider, which the court denied. On appeal *pro se*, petitioner contends that the court erred in (1) allocating GAL fees to her despite her having a valid fee waiver, (2) awarding GAL fees following a hearing at which she was not present, and (3) failing to make specific evidentiary findings in support of its award of GAL fees. The GAL filed a motion in this court seeking a review of petitioner's fee waiver. For the following reasons, we grant the GAL's motion in part and deny it in part, vacate the trial court's order allocating the GAL's fees to petitioner, remand the cause for further proceedings, and dismiss this appeal.

¶ 3

BACKGROUND

¶ 4 On August 19, 2024, petitioner, acting *pro se*, filed a plenary petition for appointment of a guardian of a person with a disability, namely, her mother, respondent Adrienne Ruth Starks. Petitioner alleged in her petition that reason for the guardianship is due to "unsustainable financial practices and self neglect."

¶ 5 On September 9, 2024, the trial court appointed attorney Kevin C. Lichtenberg of appellee HeflerLichtenberg LLC to serve as GAL for respondent. The court ordered the GAL to, *inter alia*, personally observe respondent and file a written report with the court.

¶ 6 On September 25, 2024, the GAL filed his report with the trial court. The GAL reported that, following an unannounced visit on September 25, 2024, respondent appeared safe, well cared for, and comfortable in her home. He observed a warm relationship between the respondent and Carlos Juarez, who was identified as respondent's nephew and agent under a power of attorney.

Respondent stated that she was fine and did not wish to discuss petitioner. The GAL also reported that prior well-being checks were reportedly unsubstantiated.

¶ 7 The GAL found petitioner's allegations of exploitation difficult to substantiate and noted that no Report of Physician had been completed. He concluded that he was unaware of any medical diagnosis establishing incapacity requiring a legal decision-maker and cautioned against using the proceeding to interfere with respondent's wishes. The GAL added that he remained willing to investigate the powers of attorney and other relevant matters.

¶ 8 On November 6, 2024, petitioner filed a six-page affidavit with the court. Petitioner's affidavit alleged that respondent (her mother) lacked capacity and was subject to undue influence and financial exploitation by Carlos Juarez (respondent's nephew), Jacqueline Juarez (respondent's sister), and caregiver Erika Roman. Petitioner raised concerns regarding respondent's medical care, mobility, incontinence, suspected mold exposure, living conditions, finances, and other unmet needs.

¶ 9 Petitioner's affidavit also described extensive financial support she provided to her mother. Petitioner stated that she paid for respondent to have "around[-]the[-]clock care" for 90 days following respondent's release from the hospital due to a serious infection and at the end of those 90 days, "I maintained a staff that would be there for her 8 hours a day 4 days a week." Petitioner further stated that she financially assisted in maintaining ongoing in-home care, paying utility expenses, funding home repairs and mold remediation, and contributing \$250 toward cleaning. Notably, petitioner stated, "I have remarried and my husband is very generous in that he supports me financially so that I can be generous to my mother."

¶ 10 On January 6, 2025, petitioner filed a "Motion to Withdraw Guardianship Petitions and Close Case." In her motion, petitioner requested leave to withdraw the guardianship petitions and close the case. She alleged that respondent lacked capacity and was being financially abused by

her “Power of Attorney,” Carlos Juarez, and others. She asserted that the court and GAL had declined to consider her concerns because of respondent’s existing signed power of attorney and that neither the court nor the GAL had assisted her in obtaining court orders or GAL filings. She stated that she would not pursue the matter further or “participate in” the next hearing.

¶ 11 On January 9, 2025, the trial court issued a written order discharging the GAL with leave to file a fee petition and dismissing petitioner’s petition for guardianship. On February 18, 2025, the GAL filed his fee petition in the trial court, seeking a total of \$2,405 in fees.

¶ 12 On February 28, 2025, petitioner filed an application for waiver of court fees with the trial court pursuant to Illinois Supreme Court Rule 298 (Ill. S. Ct. R. 298 (eff. Sept. 1, 2023)) and section 5-105 of the Code of Civil Procedure (Code) (735 ILCS 5/5-105 (West 2024)). In her application, petitioner stated that she earned \$1,800 in the previous month and \$16,200 in the prior year. She reported no other income for the previous month and only an additional \$1,702 from “Alaska Perm Fnd Div” in the prior year. Her monthly expenses solely consisted of food (\$300), a loan payment (\$1,000) and “house supplies” (\$600). The only assets she declared was \$6,002 in “Bank Accounts and Cash.” Page four of her application listed her address as “1410 Nachik St, Apt. D/PO Box 271, Utqiagvik/Barrow, Alaska 99723.”

¶ 13 On March 6, 2025, a judge other than the trial judge held a hearing via videoconference on petitioner’s fee waiver petition. The court first addressed identification, confirming that it was petitioner who was appearing and not “David,” as indicated on the display. Petitioner then confirmed the information on her fee waiver petition, including that she does not support anyone other than herself and does not receive public assistance benefits. Petitioner agreed that she earns approximately \$1,800 in gross monthly income from her “business.” Petitioner explained the financial challenges of living in rural Alaska and disclosed that she has diabetes and “other health issues.”

¶ 14 Regarding assets, petitioner made the following comments:

“We have one apartment that’s rented, and the other three have been basically—one has been vandalized and the other three simply have had the heating just go out on us, and in order for that to work you have to get a heater up here. We live in rural Alaska, and when we purchased the house[,] it was a good investment. But with the cold snaps that we’ve had here, and we had Internet go out. ***. So[,] anything—we have to try and get things, supplies, all of this. It now means that we have to leave here. We can’t just order it. We have to leave, get it, and come back; and it’s just kind of financially devastating at this point. Even like right now my one tenant—I’m very lucky that I have them, but we still have to—we still have heat that we have to maintain. We still have electrical we have to maintain.”

At the conclusion of the hearing, the court stated it would “sign off on this order” granting the petition, and it advised petitioner that she would not have to pay for “the filing.”

¶ 15 On March 5, 2025, the trial court issued an order directing petitioner to file her response to the GAL’s fee petition on or before 5 p.m. on March 13, 2025. The court noted that petitioner stated that she had filed a fee waiver and that it invited petitioner to discuss a “potential agreement/payment plan” with the GAL. The court set the matter for a hearing on March 17, 2025.

¶ 16 On March 12, 2025, petitioner filed her response to the GAL’s fee petition. Petitioner contended that, due to the granting of her Rule 298 fee waiver, she does not need to pay any fees, including those of the GAL. In the alternative, petitioner disputed various requested fees in the GAL’s petition and contended that the fees should be reduced to \$942.50.

¶ 17 On March 17, 2025, the trial court held the first hearing on the GAL's fee petition. Petitioner argued that her fee waiver pursuant to Rule 298 required waiver of the GAL fees. The court rejected petitioner's interpretation, concluding that the fee waiver applied to court-related costs and did not encompass GAL fees. The court further relied on the guardianship statute, which it understood to place responsibility for such fees on the petitioner within the court's discretion. The court also questioned whether petitioner qualified for a fee waiver because the underlying petition identified approximately \$1 million in real property belonging to respondent. Petitioner responded that those assets were not hers and that she lacked comparable personal assets.

¶ 18 After the GAL described his work on the matter, including court appearances, a visit to respondent's residence, and document preparation, the court stated that it had not sufficiently reviewed petitioner's response to determine the appropriate fee award. It stated that it would issue a written ruling at a later date likely requiring petitioner to pay some amount of the GAL fees. The court explained that the fees might otherwise have been assessed against respondent or respondent's estate had the court granted the petition and exercised jurisdiction over her assets, but that advance directives and previous unsubstantiated Adult Protective Services investigations prevented that result. The court concluded that petitioner is responsible for the fees.

¶ 19 The court advised petitioner that she could arrange a payment schedule with the GAL and that the court would retain jurisdiction to enforce the fee order. It further informed petitioner that an appeal would not automatically stay the payment obligation, although petitioner could arrange for disputed funds to be placed in the GAL's "IOLTA account."

¶ 20 The hearing concluded after petitioner reiterated her disagreement with the court's interpretation of the fee-waiver statute and questioned the court's "buddy buddy" relationship with the GAL, asserting that he was on the trial judge's "review team." The court rejected petitioner's

suggestion of bias, requested an apology from petitioner, and ultimately terminated the hearing, stating that it would issue its ruling in writing in due course.

¶ 21 On April 14, 2025, petitioner filed a “Motion to Vacate/Cancel April 16, 2025 Motions Call Hearing.” Petitioner’s motion stated that the April 16 hearing “was calendared in error” when she filed her response to the GAL’s fee petition. Petitioner’s motion was filed using a court-approved form. On page four of the form, entitled, “What’s Next” and “Next Step For Person Filling Out This Form;,” it stated, “If you do not already have a court date for your *Motion*, you will need to get one and file a *Notice of Court Date for Motion*.” The “Notice of Court Date For Motion” attached to petitioner’s motion, however, did not contain a hearing date. Instead, the statement “Moving party does not request a hearing” was added to the form.

¶ 22 On April 16, 2025, the trial court held the second hearing on the GAL’s fee petition. The GAL appeared and advised the court that petitioner had filed a motion seeking to vacate or strike the scheduled hearing but had not appeared for the hearing. Although petitioner had submitted the motion by e-mail, the court noted that no one had appeared in the matter that morning. The court declined to consider the motion, explaining that a hearing date could not be stricken merely by e-mail and that petitioner’s failure to appear prevented the court from entertaining her request.

¶ 23 The court then reaffirmed that a GAL is entitled to compensation and that petitioner was responsible for the fees because respondent was never adjudicated and the proceeding was ultimately withdrawn at petitioner’s request. The court rejected petitioner’s reliance on a Rule 298 fee waiver, stating that the waiver did not eliminate her obligation to pay the GAL and that the waiver appeared to have been filed after the fact as “an end run” to avoid the GAL fees.

¶ 24 The GAL’s fee petition sought \$2,405. The court stated that it did not dispute that he performed the work claimed but proposed either reducing the amount due by \$500 if paid immediately or alternatively allowing the GAL and petitioner to establish a payment schedule.

The GAL agreed to the court's proposal. The court maintained that petitioner is responsible for the GAL's fees. On that same day, the court issued a written order granting the GAL's petition, indicating that the fees assessed against petitioner would be either (1) reduced to \$1,905 if payment was made within seven days of the date of the order or (2) the full \$2,405 amount requested if petitioner elected a "payment plan / interval payments."

¶ 25 On May 15, 2025, petitioner filed a motion to reconsider the court's order dated April 16, 2025. Petitioner's motion set the hearing date on her motion for November 14, 2025. On that date, following a hearing at which petitioner appeared, the trial court denied petitioner's motion.

¶ 26 This timely appeal follows.

¶ 27 ANALYSIS

¶ 28 Petitioner contends that the trial court erred in allocating the court-approved GAL fees to her. Specifically, petitioner first argues that the court erroneously ordered her to pay the GAL fees despite her valid waiver of court fees pursuant to Rule 298 and section 5-105 of the Code (735 ILCS 5/5-105 (West 2024)). Petitioner next argues that the court improperly awarded GAL fees following a hearing at which petitioner was not present. Finally, petitioner complains that the court erred in failing to make specific evidentiary findings to support its award of GAL fees.

¶ 29 As an initial matter, however, the GAL has filed a "motion for review of the fee waiver filed by appellant in the trial and appellate courts," which we ordered taken with the case. The GAL argues that a review of the record indicates that petitioner "may not have disclosed income or assets from her husband and household member, Judge David L. Roghair,"¹ in her application for (and the trial court's and this court's subsequent granting of) a fee waiver.

¹ Petitioner has admitted that her husband is a judge of the Superior Court of Alaska.

¶ 30 In response, petitioner argues that she complied with section 5-105 of the Code and Rule 298. In her affidavit, petitioner now admits that her husband has provided her with “help in preparing documents” and has helped her “navigate” the court’s electronic filing system. Petitioner maintains, however, that she does not have an ownership interest in any real estate in Alaska or anywhere else, and that she only colloquially referred to her husband’s house as “ ‘our’ home that ‘we’ bought,” stating that only her husband is the “sole legal owner.” She adds that she and her husband “keep our finances separate” and she does not have access to her husband’s assets. Petitioner further argues in the alternative that, even if this court were to remand the matter for a hearing on her continued eligibility for a fee waiver, it can still analyze her remaining two claims: her due process claim (concerning the hearing on the GAL’s fee petition at which she did not appear) and her “sufficiency of the evidence” claim (concerning the adequacy of the trial court’s findings regarding the GAL’s fee petition).

¶ 31 Illinois Supreme Court Rule 361(h) specifies in pertinent part that dispositive motions filed in this court “may be taken with the case where the court cannot resolve the motion without consideration of the full record on appeal and full briefing of the merits.” Ill. S. Ct. R. 361(h)(1) (eff. Apr. 15, 2024). A “dispositive motion” is further defined as “any motion challenging the Appellate Court’s jurisdiction or raising any other issue that could result in the dismissal of any portion of an appeal *** without a decision on the merits of that portion of the appeal ***.” Ill. S. Ct. R. 361(h)(2) (eff. Apr. 15, 2024).

¶ 32 Court fee waivers are governed by section 5-105 of the Code, which states in part that, “[i]f the court finds that the applicant is an indigent person, the court shall grant the applicant a full fees, costs, and charges waiver entitling [the applicant] to sue or defend the action without payment of any of the fees, costs, and charges.” 735 ILCS 5/5-105(b)(1) (West 2024). The Code defines an “indigent” person as a person (1) whose “available personal income is 125% or less of the

current poverty level, unless the applicant’s assets that are not exempt under Part 9 or 10 of Article XII of this Code are of a nature and value that the court determines that the applicant is able to pay the fees, costs, and charges”; or (2) who is, “in the discretion of the court, unable to proceed in an action without payment of fees, costs, and charges and whose payment of those fees, costs, and charges would result in substantial hardship to the person or [their] family.” *Id.* § 5-105(a)(2)(ii)-(iii). A litigant who qualifies for a fee waiver order is not liable for GAL fees. *Id.* § 5-105(a)(1). To qualify for a waiver of court fees, a litigant must submit an application providing details of their financial status, including “income received by the applicant from other household members” and “the applicant’s monthly expenses, including rent, home mortgage, other mortgage, **** and other expenses.” *Id.* § 5-105(c); see also Ill. S. Ct. R. 298 (eff. Sept. 1, 2023) (“Application for Waiver of Court Fees, Costs, and Charges”).

¶ 33 The reconsideration of a fee waiver order is governed by section 5-105(f-5) of the Code, which states in relevant part as follows:

“If, before or at the time of final disposition of the case, the court obtains information, including information from the court file, *suggesting* that a person whose fees *** were initially waived was not entitled to a full *** waiver at the time of application, the court may require the person to appear at a court hearing by giving the applicant no less than 10 days' written notice of the hearing and the specific reasons why the initial waiver might be reconsidered.”

(Emphasis added.) 735 ILCS 5/5-105(f-5) (West 2024).”

Section 5-105(f-5) also allows the trial court to require an applicant to provide “reasonably available” evidence that is related to the criteria for eligibility, “including financial information, to support *** her eligibility for the waiver.” *Id.*

¶ 34 Illinois Supreme Court Rule 298, entitled, “Application for Waiver of Court Fees, Costs, and Charges,” states in part that the trial court’s ruling on a fee waiver application “shall be made according to standards set forth in” section 5-105 of the Code, and that, if the court denies the application, it must “specify*** the reasons for the denial.” Ill. S. Ct. R. 298 (eff. Sept. 1, 2023).

¶ 35 In this case, Petitioner’s application for a fee waiver in the trial court (and this court) both indicated that, although she had \$300 in monthly “housing supplies” expenses, she owned no real property and had no mortgage or rental payments. Petitioner’s affidavit in her response to the instant motion further explains that, although she and her husband refer to their Alaska residence as “ ‘our’ home that ‘we’ bought,” her husband is the “sole legal owner.” This, however, squarely contradicts her prior statements to the trial court that (1) “we [*i.e.*, petitioner and her husband] purchased the house [in rural Alaska],” which was “a good investment”; and (2) they owned at least four rental units, one of which is generating rental income. Her affidavit further contradicts page four of her fee waiver application in the trial court, where she listed her address as “1410 Nachik St, Apt. D,” in addition to what appears to be a post office box.

¶ 36 On these facts, there is information “suggesting” that petitioner was not entitled to a fee waiver. The trial court’s suspicion that petitioner had filed a fee waiver application as an “end run” to avoid paying any GAL fees raises the unmistakable inference that the court also believed the information before it suggested that petitioner was not entitled to a fee waiver. The court, however, did not reconsider petitioner’s fee waiver application according to the procedures set forth in section 5-105(f-5).

¶ 37 We must therefore vacate the court’s order allocating the GAL’s fees to petitioner and remand the cause for the court to formally reconsider petitioner’s fee waiver application. Although this court has similar concerns as to the veracity of petitioner’s statements in her application for a fee waiver in this court, we will defer reconsideration of her fee waiver application until after the

trial court has concluded its proceedings on remand. At that point, should petitioner wish to appeal that decision, this court will have the opportunity to reconsider her application to waive the \$50 filing fee in this court (see Ill. S. Ct. R. 313(eff. May 1, 2025)).

¶ 38 Nonetheless, petitioner contends that, even if we grant the GAL’s motion, this court can still resolve the remaining two claims she raises on appeal: her due process claim and whether the trial court’s factual findings were sufficient. We disagree. If petitioner remains eligible for a full fee waiver pursuant to Rule 298, she would be exempt to any GAL fees pursuant to section 5-105 of the Code of Civil Procedure. See 735 ILCS 5/5-105(a)(1) (West 2024) (including “guardian *ad litem* fees” amongst the “fees, costs, and charges” that an indigent person need not pay). Under those circumstances, her due process claim (that she was entitled to notice and an opportunity to be heard prior to the allocation of guardian *ad litem* fees) and her claim of insufficient evidentiary findings (on the part of the court prior to the allocation of those fees) would be rendered moot. It is well established that this court is generally prohibited from issuing advisory opinions. See, *e.g.*, *Oliveira v. Amoco Oil Co.*, 201 Ill. 2d 134, 157 (2002) (“Advisory opinions are to be avoided.”) (citing *Barth v. Reagan*, 139 Ill. 2d 399, 419 (1990)). For that reason, we decline petitioner’s invitation to resolve her remaining contentions on appeal.

¶ 39 Therefore, we vacate the trial court’s order allocating the GAL’s fees to petitioner and remand the matter for the court to hold a hearing on petitioner’s Rule 298 fee waiver to determine whether she is still eligible for a waiver of fees. If the trial court finds that petitioner is no longer eligible for a fee waiver pursuant to Rule 298, the court shall then allocate whatever portion of the GAL’s fees to petitioner that the court finds appropriate in the exercise of its discretion. If, however, the court finds that petitioner is still eligible for a complete or partial fee waiver, then it shall allocate—again in the exercise of its sound discretion—whatever eligible portion of the fees to petitioner that is consistent with the court’s finding as to petitioner’s eligibility for a fee waiver.

¶ 40 Accordingly, pursuant to Rule 361(h), we (1) vacate the trial court's order allocating the GAL's fees to petitioner, (2) grant that part of the GAL's motion asking this court to remand the matter to the trial court for a hearing on petitioner's eligibility for a fee waiver (consistent with, *inter alia*, Rule 298 and section 5-105 of the Code), (3) deny that part of the GAL's motion asking this court to reconsider petitioner's eligibility for a fee waiver, and (4) dismiss this appeal.

¶ 41 CONCLUSION

¶ 42 The trial court erred in allocating GAL fees to petitioner without first holding a hearing to determine whether petitioner was still eligible for a full or partial waiver of fees in compliance with Rule 298 and section 5-105 of the Code. As a result, the validity of petitioner's fee waiver renders petitioner's other appellate claims moot. Accordingly, we grant the GAL's motion for a review of the fee waiver, vacate the court's order allocating the GAL's fees to petitioner, remand the cause for further proceedings, and dismiss this appeal.

¶ 43 Appellee's motion (filed on March 13, 2026) granted in part and denied in part; trial order vacated; cause remanded for further proceedings; appeal dismissed.